## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	v	Force	$\overline{\mathbf{V}}$	Discourt.	U.S.
Christopher Anderson		Squad #2	201703207		Abuse	П	O.L.	Injury
		Squud :: 2	2017.00207		110 410 6		0.2.	<u> </u>
Incident Date(s)		Location of Incident:		F	Precinct:	18	Mo. SOL	EO SOL
Friday, 04/21/2017 10:00 PM		Transit District 3 statio Manhattan Central Boo			30	10	0/21/2018	10/21/2018
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	eived at CCI	RB
Wed, 04/26/2017 8:45 AM		CCRB	Phone		Wed, 04/2	6/201	17 8:45 AM	ſ
Complainant/Victim	Туре	Home Addre	ess					
Witness(es)		Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Jean Alejandro	02710	954472	TB DT03					
2. POM Mmostayen Faysal	03930	960521	TB DT03					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. POM Edmond Decio	31394	915565	MAN CT					
2. POM Chad Bouffard	07125	960271	TB DT03					
3. POM Jeffrey Philip	15783	961103	TB DT03					
4. POM Camilo Camacho	14053	952531	TB DT03					
5. POM Christophe Guardino	22312	954895	TB DT03					
Officer(s)	Allegatio	on			Inve	stiga	ator Recon	nmendation
A.POM Jean Alejandro	Abuse: At the Transit District 3 stationhouse, Police Officer Jean Alejandro did not obtain medical treatment for [887(2)]							
B.POM Jean Alejandro	Force: At the Transit District 3 stationhouse, Police Officer Jean Alejandro used physical force against \$87(2)(b)							
C.POM Jean Alejandro	Discourtesy: At the Transit District 3 stationhouse, Police Officer Jean Alejandro spoke discourteously to [87/2]							
D.POM Mmostayen Faysal	Abuse: En route to Manhattan Central Booking, Police Officer Mmostayen Faysal threatened (S87(2)(b)) with the use of force.							

### **Case Summary**

On April 26, 2017, §87(2)(b) called the CCRB to file this complaint.
On April 21, 2017, at approximately 5:30 p.m., S87(2)(b) jumped over an entry
turnstile inside the 163 <sup>rd</sup> Street – Amsterdam Avenue C train subway station in Manhattan and
was stopped and arrested by Police Officer Jean Alejandro, Police Officer Camilo Camacho, and
Police Officer §87(2)(b) Guardino, all from Transit Bureau District 3 (Board Review 17).
was transported to the Transit Bureau District 3 stationhouse, where his arrest was
processed and he was lodged in a cell with \$87(2)(b) requested medical
attention numerous times and was told repeatedly by Police Officer Alejandro to "hold on."
did not receive medical attention until after he was transported to Manhattan Central
Booking (MCB) and subsequently to ST(2)(b) Hospital (Allegation A).
Between 10:00 p.m. and 11:00 p.m., Police Officer Alejandro entered 87(2)(6)
holding cell, placed handcuffs and leg shackles on him, and escorted him into the holding cell
area, where \$87(2)(b) again requested medical attention. Police Officer Alejandro allegedly walked to video cameras in the hallway where \$87(2)(b) stood, turned them to face away
from \$87(2)(b) and allegedly punched \$87(2)(b) once in the left side of his face
(Allegation B). § 87(2)(b) lost consciousness. When he regained consciousness while lying
on his stomach, Police Officer Alejandro allegedly called \$87(2)(b) a "pussy" (Allegation
C). §87(2)(6) was transported to MCB. En route, Police Officer Mmostayen Faysal, from
Transit Bureau District 3, allegedly told \$87(2)(6) that he would punch him ( <b>Allegation D</b> ).
was later transported from MCB to \$87(2)(b) Hospital, where he received treatment
for his diabetes and swelling on his face (Privileged Document 01).
No video footage was found in this case. A request was sent to Transit Bureau District 3
requesting footage recorded by cameras installed in the holding cell area; a response was received
stating that the cameras installed in the area are for live monitoring and do not record (Board
Review 18).
§ 87(2)(g)
Mediation, Civil and Criminal Histories
• This case was not suitable for mediation due to \$87(2)(5) s arrest and ongoing
prosecution.
• As of June 29, 2017, as per the New York City Comptroller's Office, \$87(2)(b) has
not filed a Notice of Claim with the City of New York regarding this incident (Board
Review 01).
• § 87(2)(b)
The court case resulting from his arrest in this incident remains open with his next court
date scheduled for \$87(2)(b)
date selection for a con-
Civilian and Officer CCRB Histories
• This is \$87(2)(6) s first CCRB complaint (Board Review 03).
1

Page 2

- Police Officer Alejandro has been a member of the NYPD for four years and has had seven allegations against him in three cases, none of which were substantiated. One of these cases, CCRB case number 201700235, which remains open, contains allegations of physical force and, while not a FADO allegation, contain an allegation regarding members of service within Transit Bureau District 3 manually moving cameras within the stationhouse holding cell area prior to using physical force, just as is being alleged by in this incident.
- Police Officer Faysal has been a member of the NYPD for one year, and this is the first CCRB complaint against him.

#### **Potential Issues**

- The Transit Bureau District 3 Prisoner Holding Pen Roster covering the period of time that \$87(2)(6) was lodged (Board Review 08) indicates that four other prisoners, and \$87(2)(6) were also lodged in the holding cells around the time this incident occurred. The CCRB obtained contact information for these prisoners via various sources. Of these prisoners, only provided a statement to the CCRB. The rest were either unresponsive to contact attempts or refused to provide statements for the investigation.
- A spin-off regarding the allegations in this case and CCRB case 201700235 of officers turning closed circuit television cameras to face away from prisoners prior to using force against them was sent to IAB via CCRB case number 201706369.

#### **Findings and Recommendations**

#### **Allegations not pleaded**

Given that it is undisputed that \$87(2)(5) was screaming various things while being escorted out of the stationhouse, his alleged complaint of Police Officer Alejandro's physical force during this period was made in a general manner that would not have prompted officers at the stationhouse desk to file an official complaint. An allegation of refusal to process a civilian complaint regarding an officer has therefore not been pleaded.

# Allegation A –Abuse of Authority: At the Transit District 3 stationhouse, Police Officer Jean Alejandro did not obtain medical treatment for \$87(2)(5)

On April 28, 2017, 37(2)(b) was interviewed at the CCRB. On May 25, 2017, 37(3) provided a telephone statement to the CCRB (Board Review 04). On June 8, 2017, 37(3) was interviewed at 300 Schermerhorn Street in Brooklyn. On June 9, 2017, Police Officer Alejandro and Police Officer Bouffard were interviewed at the CCRB. On June 12, 2017, Police Officer Philip and Police Officer Faysal were interviewed at the CCRB. On June 14, 2017, Police Officer Camacho was interviewed at the CCRB.

stated that when he learned, at approximately 7:30 p.m., that he would not be released from the stationhouse, he requested medical attention of Police Officer Alejandro for his diabetes. Police Officer Alejandro informed \$87(2)(6) that he would soon be transported to MCB and walked away. Over the following period, lasting two and a half to three and a half hours, \$87(2)(6) requested medical attention over ten times and was told repeatedly by Police Officer Alejandro to "hold on." Between 10:00 p.m. and 11:00 p.m., \$87(2)(6) was transported to MCB, where he informed an unidentified staff member that he had diabetes. The Page 3

individual asked the officers who transported § 87(2)(b) why no medical treatment had been obtained for him and instructed them to transport him to a hospital.
stated that he was lodged in a holding cell, and at approximately 8:00 p.m., was also lodged inside it. \$37(2)(b) immediately began loudly yelling that he had diabetes and needed food and medication. \$37(2)(b) repeated this requested numerous
times. Police Officer Alejandro stopped at the holding cell and spoke with \$87(2)(b) in a "friendly" manner. \$87(2)(b) fell asleep, and upon waking up, immediately began yelling for
medical attention again. \$87(2)(b) and \$87(2)(b) spent approximately two hours together inside the holding cell.
Police Officer Alejandro noted in his memo book that he began vouchering sproperty slightly prior to 8:00 p.m. (Board Review 05). At approximately 9:50 p.m.,
became agitated and requested transport to a hospital multiple times. Prior to this, had not requested medical attention of Police Officer Alejandro, Police Officer
Alejandro had not been aware of \$87(2)(b) having diabetes, and Police Officer Alejandro did not hear \$87(2)(b) request medical attention of or speak with any officer. Police Officer
Alejandro did not intentionally wait to obtain medical treatment for \$87(2)(b) Police Officer Alejandro informed \$87(2)(b) that he would be transported to MCB and then to \$87(2)(b)
Hospital due to their proximity to each other. Police Officer Alejandro stated that prisoners who were to be transported to a hospital were placed in leg shackles.
Police Officer Camacho stated that, prior to first hearing \$87(2)(b) s request for medical attention at approximately 10:00 p.m., he did not learn at any point during the incident
that \$37(2)(b) had made such a request. Police Officer Alejandro placed leg shackles on Police Officer Camacho did not inform Police Officer Faysal, Police Officer Philip, or
Police Officer Bouffard about which of the prisoners prepared for transport were to be transported to a hospital but thought that it was understood that \$87(2)(b) having leg shackles served as
an indication of his need to be transported to a hospital.  Police Officer Faysal, Police Officer Philip, and Police Officer Bouffard, who transported
to MCB and then [\$87(2)(b)] Hospital, all stated that they were not aware of smedical conditions at the time they transported him to MCB and that the decision to
transport \$87(2)(b) to a hospital was made by staff at MCB. Police Officer Faysal and Police Officer Philip stated that they were not instructed at the stationhouse about which prisoners were
to be transported to a hospital.  S87(2)(b) s transport to MCB at approximately 10:26 p.m. is reflected in the
Prisoner Holding Pen Roster, and his time spent at MCB before being transported to \$87(2)(b)
Hospital at \$87(2)(b) on \$87(2)(b) is reflected in \$87(2)(b) s arraignment sheet (Board Review 11). Transit Bureau District 3 reported that no Medical Treatment of Prisoner
Report was prepared for \$87(2)(b) s medical treatment (Board Review 12).  \$87(2)(b), \$87(2)(g)

Page 4

Procedure 210-04 (Board Review 07). Leg restraints are to be placed on a prisoner if it is determined that the prisoner is a potential escape risk, or the prisoner refused to be fingerprinted, or the prisoner is being transported to a hospital for medical treatment. Patrol Guide Procedure 210-01 (Board Review 06). § 87(2)(b), § 87(2)(g) Allegation B – Force: At the Transit District 3 stationhouse, Police Officer Jean Alejandro used physical force against § 87(2)(b) stated that Police Officer Alejandro entered the holding cell area, handcuffed prisoners in other cells, escorted them out of their cells, handcuffed \$37(2)(5) and escorted him outside to where the other prisoners and multiple officers stood. Police Officer Alejandro walked to video cameras in the hallway and turned them to face away from where stood. Police Officer Alejandro stood in front of §87(2)(b) facing him. Police Officer Alejandro told \$87(2)(b) to request medical attention again, and \$87(2)(b) felt something strike him in the left side of his face from Police Officer Alejandro's right side. Because the strike occurred quickly and Police Officer Alejandro had been standing very close to him, § 87(2)(b) did not see the process of Police Officer Alejandro striking him but thought it was with a closed fist below his left eye. \$87(2)(b) fell to the ground, lost consciousness, and, when he regained consciousness, felt pain and numbness in the left side of his face. While being escorted out of the stationhouse, §87(2)(b) vicinity of the stationhouse desk that Police Officer Alejandro had struck him. According to \$87(2)(b) s medical records received from \$87(2)(b) Hospital (Privileged Document 01), \$87(2)(b) received treatment for his diabetes and stated that he "was hit in the face during his arrest and has pain to the left side of his face." The records noted that \$87(2)(b) had "minor swelling" on his face and had "likely soft tissue swelling." He exhibited "some pain with palpation [pressing down] on the left maxilla [area of face beneath the eyes (Board Review 16)]." He was given ketorolac tromethamine, a non-steroidal antiinflammatory drug used in the treatment of pain (Board Review 13). He also received insulin for his diabetes. s arrest photograph, which, according to the NYPD Department Advocate's Office, was taken at MCB, shows a frontal view of his face (Board Review 14). The photograph of § 87(2)(b) taken at his CCRB interview seven days later, on April 28, 2017 (Board Review 15), displays his face at a similar angle and in similar lighting conditions. The

Officers must request an ambulance and have prisoners removed to a hospital if medical,

psychiatric, or drug addiction treatment is required during arrest processing. Patrol Guide

Page 5

arrest photograph depicts what appears to be an area of swelling in the upper portion of s left cheek that is not visible in his CCRB interview photograph. When contacted by the CCRB, § 87(2)(b) with little prompting, asked the undersigned investigator whether this complaint had been filed by a male who had been struck in the face in the Transit Bureau District 3 stationhouse. He then provided a telephone statement in which he described Police Officer Alejandro pushing a camera "up" and then punching § 87(2)(b) the face. During his in-person sworn statement, § 87(2)(b) stated that after he was handcuffed and placed in leg shackles, he was escorted from his cell in the Transit Bureau District 3 stationhouse into the hallway of the holding cell area, where he saw § 87(2)(6) escorted out of his cell with his hands behind his back, suggesting that he had been rear handcuffed. § 87(2)(b) his back to the wall at the end of the hallway. Police Officer Alejandro took hold of a camera, which had been pointed towards where \$87(2)(b) stood, and manually pushed it to face directly upwards, towards the ceiling. Police Officer Alejandro and §87(2)(b) had "words back and forth," the content of which \$87(2)(b) did not hear. Police Officer Alejandro spoke in a "violent" then shouted, "Ah!" fell to his knees, and bent his upper body forward, placing his forehead on the floor. §87(2)(b) saw swelling on the left side of §87(2)(b) face, near his eye. § 87(2)(b) did not see Police Officer Alejandro punch § 87(2)(b) believed, due to the location of the swelling on § 87(2)(b) s shouting, and s falling to the ground, that Police Officer Alejandro had punched § 87(2)(6) face with his right fist. Prior to his attention being drawn by hearing and seeing \$87(2)(b) yell and fall to the ground, \$87(2)(b) had not been paying much attention to \$87(2)(b) and Police Officer Alejandro because he had been "traumatized" by his own arrest. \$67(2)(6) approximately three to four feet away from Police Officer Alejandro, whose back was turned to and § 87(2)(b) who faced § 87(2)(b) One prisoner in the chain of prisoners stood between \$87(2)(b) and Police Officer Alejandro. During the process of escorting the prisoners out of the stationhouse to a transport van, heard Police Officer Aleiandro tell \$37(2)(b) "You can go and complain that I hit you. All I have to tell them is that you fell." \$ 87(2)(b) said aloud that he had been struck by an officer while handcuffed. No officer responded. \$87(2)(b) did not interact with \$87(2)(b) at any point during or after the incident. § 87(2)(b) and § 87(2)(b) did not know each other prior to this incident and have had no interaction since. Police Officer Alejandro was not s arresting officer or involved in his arrest. Police Officer Alejandro stated that he did not make contact with any of the cameras in the holding cell area during this incident, did not move any of the cameras, and did not see any officer do so. After placing § 87(2)(b) in the chain of prisoners in the holding cell area, Police Officer Alejandro did not have further physical contact with him, did not strike him in the face or strike him whatsoever. \$87(2)(b) did not lose consciousness in the holding cell area, nor did he fall to the ground. \$87(2)(b) did not complain to any officers at the stationhouse desk that he had been struck by an officer or at all. Police Officer Alejandro made a memo book entry at 9:50 p.m. stating, "Defendant is agitated and attempted to fight defendant in cell number 3. Defendant also stated he has diabetes and started hitting himself, stating he wants to go to the hospital. Defendant also urinated all over the walls of the prisoner's bathroom." During the open-ended narrative of his CCRB interview, Police Officer Alejandro referenced all elements of this entry, with the exception of hitting himself. When later asked about the elements constituting [87(2)(b)] Page 6

"agitation," Police Officer Alejandro stated that this consisted of \$87(2)(b) urinated on the
bathroom walls, attempting to break the holding cell bench, threatening to sue Police Officer
Alejandro, and nothing else. When asked about his memo book entry's reference to
hitting himself, Police Officer Alejandro stated that while inside his holding cell,
said, "I'm going to the hospital," struck the wall one time with an open palm, and
struck himself in the face one time with an open palm. Police Officer Alejandro did not see any
injury on \$87(2)(0) as a result. At the conclusion of his interview, Police Officer Alejandro
was presented with \$87(2)(b) s arrest photograph, and his attention was drawn to
s left cheek, which reflected light in a manner that appeared to indicate swelling or
redness. When asked if he had seen anything resembling this during the incident, Police Officer
Alejandro stated that he had not and reiterated that \$\frac{887(2)(0)}{2}\$ had struck himself in the face.
Police Officer Camacho stated that after he arrived at the stationhouse at approximately
**
10:00 p.m., Police Officer Alejandro requested his assistance with \$87(2)(b) Police Officer
Camacho entered the holding cell area and was present with §87(2)(b) and Police Officer
Alejandro during the time that he was removed from his cell, escorted to the holding cell
bathroom, removed from the bathroom, handcuffed and placed in leg shackles, placed in the
chain of prisoners, and escorted out of the stationhouse. Police Officer Camacho denied seeing
Police Officer Alejandro or any officer manually move any cameras in the holding cell area or
strike \$87(2)(b) In front of the stationhouse desk, \$87(2)(b) screamed profanities.
When escorted to the transport van, §87(2)(b) continued screaming, but the nature of his
screaming had changed in that he was "screaming, 'Ah!' really loud." Police Officer Camacho
stated that his memo book entry (Board Review 09) regarding [887(2)(b)] "hitting self"
referred to \$87(2)(b) standing in the holding cell bathroom, placing an open palm against the
wall at head level, leaning against it, and "scraping" his face and hand back and forth against the
wall.
Police Officer Faysal, Police Officer Philip, and Police Officer Bouffard denied seeing
any officer strike \$87(2)(6) during the incident.
Members of the service shall not use any level of force on handcuffed or otherwise
restrained subjects unless necessary to prevent injury, escape or to overcome active physical
resistance or assault. <u>Patrol Guide Procedure 221-01</u> (Board Review 10).
§ 87(2)(b), § 87(2)(g)
Police Officer Alejandro and Police Officer Camacho, who were both present prior to and
during the alleged force, both accounted for [\$87(2)(b)] "hitting himself" in their memo books
\$ \$7(2)(b), \$ \$7(2)(g)

Page 7

§ 87(2)(b), § 87(2)(g)
Additionally, while Police Officer Alejandro himself placed Police Officer Bouffard and
additional officers, whose physical descriptions provided as consistent with the pedigree information of Police Officer Faysal and Police Officer Philip, inside the holding cell area during this portion of the incident, Police Officer Bouffard, Police Officer Faysal, and Police Officer Philip all denied entering the holding cell area at any point prior to \$87(2)(6) being
escorted to the stationhouse desk. \$87(2)(b). \$87(2)(g)
\$ 87(2)(b), \$ 87(2)(g)
s or (=)(o), s or (=)(e)
$\cdot$
Allogation C. Discounts are At the Transit District 2 stationhouse Police Officer Icon
Allegation C –Discourtesy: At the Transit District 3 stationhouse, Police Officer Jean Alejandro spoke discourteously to \$87(2)(b)
stated that after Police Officer Alejandro punched him, he lost
consciousness, and upon his regaining consciousness, Police Officer Alejandro called him a
"pussy." Police Officer Alejandro denied saying this, and Police Officer Camacho, Police Officer
Faysal, Police Officer Philip, and Police Officer Bouffard denied hearing any officer do so during
the incident. While \$87(2)(b) stood a short distance from Police Officer Alejandro and during their interaction inside the Transit Bureau District 3 stationhouse holding cell
area, he only described their verbal interaction based on its tone and was unable to recall specific
statements. §87(2)(b) stated that he did not hear Police Officer Alejandro call §87(2)(b) a
"pussy" but also could not state that it did not occur.
§ 87(2)(b), § 87(2)(g)
·
Allegation D – Abuse of Authority: En route to Manhattan Central Booking, Police Officer
Mmostayen Faysal threatened 887(2)(5) with the use of force.
stated that during his transport to MCB, he complained to Police Officer
Faysal that he did not respond to Police Officer Alejandro's actions. Police Officer Faysal
"clicked" his Taser, causing it to emit sound and electricity, which [887(2)(b)] interpreted as a
threat. Police Officer Faysal also told \$87(2)(b) that he would punch him.
stated that, inside the transport van, he sat one row behind \$87(2)(b) and two rows behind Police Officer Faysal. Police Officer Faysal held a Taser in his hand above his
seat but did not point it towards anyone or hold it like a pistol. He did not observe \$87(2)(0)
interact with any officers during transport.
Police Officer Faysal stated that he entered the transport van and assisted a prisoner
whose handcuffs had become entangled. After confirming that the adjustments he made to the

Page 8

prisoner's handcuffs were acceptable, Police Officer Faysal did not interact with any prisoners in any other way. Police Officer Faysal acknowledged that he fired his Taser in "drive stun" mode by pointing it at the ground while inside the prisoner transport van with \$37(2)(b) other prisoners, and other officers. He stated that he did so to ensure the operability of the Taser after he had dropped it onto the ground.

Police Officer Philip and Police Officer Bouffard both stated that no notable interactions between prisoners and officers occurred during the prisoners' transport to MCB.

§ 87(2)(b)			
Squad: 2			
Squad. 2			
Investigator: _			
	Signature	Print	Date
Squad Leader: _			
Squad Leader	Title/Signature	Print	Date
	8		
Reviewer:			
	Title/Signature	Print	Date

Page 9